AO91 (Rev. 12/03) Criminal Complaint

United States Courts
Southern District of Texas
FILED
MAY 13 2017
David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT

Southern DISTRICT OF Texas

UNITED STATES OF AMERICA
V.
Benjamin David SHERWOOD

(Name and Address of Defendant)

CRIMINAL COMPLAINT

Case Number: 17-766-M

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about 5/12/2017 (Date) in Harris County, in the Southern District of Texas defendant(s) did,

(Track Statutory Language of Offense)

Travel with Intent to Engage in Illicit Sexual Conduct

in violation of Title 18 United States Code, Section(s) 2423(b).

I further state that I am a(n) HSI Special Agent (Official Title) and that this complaint is based on the following facts:

See the attached affidavit

Continued on the attached sheet and made a part of this complaint: ☑ Yes ☐ No

[signature]
Signature of Complainant

William R. Hurst
Printed Name of Complainant

Sworn to before me and signed in my presence,

May 13, 2017 at Houston Texas
Date City State

Nancy K. Johnson U.S. Magistrate
Name of Judge Title of Judge

[signature]
Signature of Judge

AFFADAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, William R. Hurst, being truly sworn and deposed state,

1. I am a Special Agent with the Department of Homeland Security, Homeland Security Investigations (HSI), assigned to the Office of the Special Agent in Charge, Houston, Texas. I have been employed by Immigration & Customs Enforcement (ICE), Homeland Security Investigations (HSI), as an HSI agent for approximately ten years. I am currently assigned to the Cyber Investigations Group and as part of my daily duties as an HSI agent assigned to this group, I investigate criminal violations relating to child exploitation and child pornography including violations of Chapter 109A, Chapter 110 and Chapter 117, all contained within Title 18 of the United States Code. I have received training in the area of child pornography and child exploitation. I have also participated in the execution of search warrants and arrest warrants; a number of which involved child exploitation and child pornography offenses.

2. This affidavit is based on reports your affiant has read and conversations your affiant has had with law enforcement officers and investigators involved in this investigation. This affidavit does not set forth all of my knowledge in this matter, but is intended only to show that there is probable cause to believe that Benjamin David SHERWOOD is in violation of Title 18 USC 2423(b), Travel with Intent to Engage in Illicit Sexual Conduct.

3. On August 10, 2015, HSI Special Agent (SA) Marisa Schwartz participated in an undercover operation on the Internet Relay Chat (IRC) Undernet network. SA Schwartz entered a chat channel titled "#baby&toddlerlove". The "#baby&toddlerlove" channel is dedicated to the discussion and promotion of child abuse focused on infants and toddlers. Users also routinely post images of child pornography and child erotica. SA Schwartz (undercover name Christi) portrayed herself as a mother of a two-year-old female (named Lexi) also interested in the exploitation of children.

4. During numerous chat, email, text message, and phone conversations with SA Schwartz from August 10, 2015, to May 12, 2017, SHERWOOD repeatedly acknowledged the age of the female child and continued to discuss his interest in traveling to Houston, Texas, from La Crosse, Wisconsin. SHERWOOD stated the purpose of his trip was to have several days of sexual contact with the minor female. During one conversation, SHERWOOD stated that a

reason he did not have any long term relationships with adult women is because he is only sexually aroused by children. SHERWOOD has also stated on numerous occasions that he knew traveling to have sex with a minor is illegal.

5. On February 9, 2017, SHERWOOD sent an image of child pornography to SA Schwartz via his email account. The image depicted a nude prepubescent female aged two to four years old straddling an adult male penis. The female child has semen on her vagina and legs.

6. On May 2, 2017, SHERWOOD sent an email message to SA Schwartz stating "Christy please let me come. I'll be there and I do want this." SHERWOOD was referring to traveling to Texas so he could have sex with SA Schwartz's minor female daughter.

7. On May 8, 2017, SHERWOOD asked SA Schwartz how old her daughter was now. She replied that she turned four-years-old last month. SHERWOOD responded by saying "I do not mind Lexi being so tiny for her age. I'm glad she has these babyish qualities. Even diaper wearing. Binkie sucking baby girl. I prefer that. I am very turned on by that. I love that a 2t will fit her. So no weirdness at all."

8. On May 11, 2017, SHERWOOD sent a picture of a black Nissan Altima and an agreement with Enterprise Rental Car and stated, "I'm driving now. Here's my wonderful rental. And sent a pic of my rental agreement too. So you know."

9. On May 12, 2017, SHERWOOD sent an email message to SA Schwartz stating, "I'm very excited I can barely stand it. Finally get to love on your baby Angel. I have 2 baby blankets. One to go under us while I am loving on her. One to swaddle her. Rock her. And caress her. I have my laptop so she can be distracted with a movie for her maybe. Her binkie to distract her, and comfort her. I don't know what is going to happen but I know you and I both will experience our own pleasurable fantasy tonight and Saturday. We all will have a wonderful memorable experience. I already love you both." Later in the same email, SHERWOOD states, "Obviously need to be careful. I can't scream "Lexi my lil baby lover I'm going to cum" or "Christy! God I want your baby girl" as much as I'd want to lol. I do want to hear you. Look at me and tell me. It's ok Ben. It's ok. A lil more Ben. It's ok. She's ok Ben. I wanna hear you orgasm. I wish we could scream out exactly what we are thinking. Maybe someday we can be in a situation. Where we can be more private. More secluded where we can do that. I guess I'm just saying I wish I could yell out her name and age."

10. On May 12, 2017, agents observed SHERWOOD as he entered a Babies R Us store in Houston, Texas. Agents continued surveillance of SHERWOOD as he checked into a hotel he had previously planned on staying at with SA Schwartz and her child. While SHERWOOD was unloading his trunk, agents observed a stuffed animal and children's clothes.

11. On May 12, 2017, SHERWOOD was arrested as he approached a location he had agreed to meet SA Schwartz and her daughter. SHERWOOD then granted agents written consent to search his hotel room. During a search of the hotel room, agents observed children's blankets and a stuffed animal arranged on the bed. Agents also observed pacifiers on the night stand and sexual lubricant in the night stand. In the closet, SHERWOOD had arranged several children's outfits and a pink sign that had "Sweet Baby Girl" printed on it.

12. Due to all the information set forth above, your affiant believes there is probable cause to believe on or about May 12, 2017, SHERWOOD was in violation of 18 USC 2423(b), Travel with Intent to Engage in Illicit Sexual Conduct.

William R. Hurst
Special Agent
Homeland Security Investigations

SUBSCRIBED and SWORN
Before me this 13 day of May 2017

Nancy K. Johnson
United States Magistrate Judge
Southern District of Texas